In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-966

CONFEDERATION LIFE INSURANCE COMPANY

v.

REYES ARIDA CONTE

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

MEMORANDUM TRANSMITTING LETTER AND NOTE

Pursuant to the request of the Acting Legal Adviser of the Department of State, I am transmitting his letter to me of February 2, 1973, together with the note from the Canadian Ambassador attached thereto.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

FEBRUARY 1973.

494-606—73

APPENDIX

DEPARTMENT OF STATE
THE LEGAL ADVISER
Washington, February 2, 1973.

DEAR MR. SOLICITOR GENERAL: I enclose herewith an authenticated copy of diplomatic note No. 41 dated January 31, 1973, from the Canadian Ambassador to the Secretary of State, presenting observations of the Canadian Government on the petition in the Supreme Court of the United States for a writ of certiorari to the Supreme Court of Florida in the case of *Confederation Life Insurance Company* v. *Reyes Arida Conte*, October Term, 1972, No. 72–966, and requesting transmittal of the note to the Supreme Court.

The Canadian Ambassador has personally called on me on instructions of his Government to emphasize the importance the Government of Canada attaches to a decision by the Supreme Court to grant the petition in this case.

In accordance with the request of the Canadian Ambassador, the Department of State would be obliged if you can transmit the note to the Supreme Court, together with this letter.

Sincerely yours,

CHARLES N. BROWER,
Acting.

Enclosure:
Diplomatic note from Ambassador of Canada

Honorable ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C.

CANADIAN EMBASSY,
Washington, D.C., January 31, 1973.

Hon. WILLIAM P. ROGERS,
The Secretary of State,
Washington, D.C.

SIR: I have the honour, acting on instructions of and on behalf of the Government of Canada, to present the following observations of my Government on the pending petition to the Supreme Court of the United States, October Term 1972, for a writ of certiorari to the Supreme Court of Florida, in the case of Confederation Life Insurance Company, a Canadian corporation, petitioner, v. Reyes Arida Conte, respondent. I have the further honour to request that this Note be transmitted to the Supreme Court for its consideration.

The Government of Canada, while not in any way making representations or expressing any opinion on questions of United States law, is desirous of registering its serious concern with respect to the effect of the decision of the Supreme Court of Florida entered on July 19, 1972 and its earnest desire that the judgment of the Florida Supreme Court be reviewed by the United States Surpeme Court.

In light of the fact that the petition in question has implications of serious magnitude for a large number of insurance policies underwritten by the Confederation Life Insurance Company to a value of millions of dollars, the Government of Canada is of the view that the Supreme Court may wish to take into account the following considerations when dealing with the petition.

If the Florida Supreme Court decision in this case remains unchanged, the provisions relating to the currency in which insurance policies issued outside the United States are to be payable, as stipulated in the insurance contracts themselves or by statute or regulation of the government of the territory in which the contract was made, could be over-ridden by bringing an action in a Florida court, thus effecting material changes in the contracts and, in some cases, providing a means for the evasion of foreign exchange control legislation of the state where the policies were issued. Further, since funds must be maintained by insurance companies to cover their liabilities for policies issued in any particular jurisdiction, and the Confederation Life Insurance Company has maintained funds in Cuba to the extent of its liabilities there as it has done in the United States in respect of policies underwritten in this country, any enforced obligation to meet financial claims arising from policies issued in Cuba by drawing on assets located elsewhere would run counter to international insurance practice. It would also undermine the regular conduct of business affairs which depend for their efficacy of operation—as do many types of enterprises engaged in international transactions—on an ability to conform to applicable regulations in the territory where contracts are made.

For these reasons and taking into account the current inconsistency among various U.S. court decisions involving comparable claims in respect of contracts of insurance underwritten in Cuba by foreign insurance companies, the Government of Canada is of the firm belief that a review of this issue by the United States Supreme Court is required to resolve the existing lack of uniformity of judgments within U.S. jurisdictions.

I trust that you may consider it appropriate to transmit this Note to the Supreme Court of the United States in order that the Court may be able to take into account the views of the Government of Canada when it considers the pending petition.

Please accept, Sir, the renewed assurances of my highest consideration.

Mr. CADIEUX,
Ambassador.

U.S. GOVERNMENT PRINTING OFFICE: 1970